

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

T.W., a minor, by her next friend and parent,  
MARGIE NIEVES,

Plaintiff,

-against-

JERSEY CITY BOARD OF EDUCATION;  
WILLIAM L. DICKINSON HIGH SCHOOL;  
GEKSON CASILLAS; ROSE WINSTEAD;  
MARISSA SAVINO-GONZALEZ; JOHN  
SMITH; and HOWARD ZLOTKIN,

Defendants.

No. 21 Civ. 12332

**COMPLAINT AND JURY  
DEMAND**

Plaintiff T.W., by her next friend and parent, Margie Nieves, and by and through her attorneys Kaufman Lieb Lebowitz & Frick, alleges as follows:

**PRELIMINARY STATEMENT**

1. T.W. opened her Zoom window on the morning of April 28, 2021 expecting to hear a lecture about climate change, the subject her high school Landscape and Design class was studying.

2. Instead, she was subjected to unprompted racist vitriol from her teacher, Howard Zlotkin.

3. Yelling and snarling, Zlotkin called George Floyd a “fucking criminal who was killed because he wouldn’t comply.”

4. He berated the students for “whining and crying” in declaring that Black Lives Matter.

5. When T.W., a Black student in the class, objected, Zlotkin turned his ire to her.

6. He told T.W. and three other students that they would be required to write essays explaining why Black lives should matter.

7. Shocked and horrified by this racist outburst, T.W. reached out to staff and administrators at her high school. But no one responded.

8. T.W. was not wholly surprised by the school's inaction. Months earlier, after Zlotkin had gone on another rant in class and called the students "fucking idiots," T.W. had alerted the principal, Gekson Casillas.

9. But instead of formally investigating, disciplining, or removing Zlotkin from the teacher roster, school administrators allowed his class to continue as before. The only change was that, in the very next class, Zlotkin screamed at the students that someone had "ratted him out" to the principal.

10. As a result, when the school once again failed to step in and protect T.W. and her peers from Zlotkin's abuse after the April 28, 2021 incident, the feeling of betrayal was familiar to T.W.

11. T.W. was forced to return to Zlotkin's class the next day.

12. When she refused to present to the class on the demeaning and degrading assignment he had given her, Zlotkin erupted, saying that she "couldn't make a case for herself"—i.e., that she was incapable of justifying her own worth as a Black person.

13. When students objected to his racist rant, he called them "whiners" who were "full of shit," and insisted that it was perfectly reasonable to demand that Black students "explain themselves"—that is, to explain why their lives have value.

14. After this class, T.W. again reached out to school administrators.

15. But it was only after she reported Zlotkin's racist rants to the news media that school officials finally sprung into action, suspending Zlotkin.

16. T.W. was devastated, humiliated, and outraged by the racist abuse she suffered during a public school class she was required to attend.

17. She brings these claims under Title VI of the Civil Rights Act of 1964, the New Jersey Law Against Discrimination, and the United States Constitution for the violation of her rights to be free from racial discrimination and harassment.

### **PARTIES**

18. Plaintiff T.W. is a 17-year-old Black high school student and sues here by her next friend, parent, and guardian, Margie Nieves. At all relevant times, T.W. attended William L. Dickinson High School, a school in the Jersey City School District.

19. Defendant Jersey City Board of Education (the “BOE”) is the governing body of the Jersey City School District, pursuant to N.J. Stat. Ann. §§ 18A:10-1 and 18A:11-1. The BOE oversees and manages the Jersey City School District and its component schools, including William L. Dickinson High School. Upon information and belief, the BOE and each of its component schools receives federal financial assistance within the meaning of 42 U.S.C.A. § 2000d.

20. Defendant William J. Dickinson High School (“Dickinson High”) is a high school in Jersey City, New Jersey. Upon information and belief, Dickinson High receives federal financial assistance.

21. Defendant Gekson Casillas was at all relevant times the Principal of Dickinson High, acting under color of state law. He is sued in his individual capacity.

22. Defendant Rose Winstead was at all relevant times a Vice Principal at Dickinson High, acting under color of state law. She is sued in her individual capacity.

23. Defendant Marissa Savino-Gonzalez was at all relevant times a guidance counselor at Dickinson High, acting under color of state law. She is sued in her individual capacity.

24. Defendant John Smith was at all relevant times a Crisis Intervention Teacher at Dickinson High, acting under color of state law. He is sued in his individual capacity.

25. Defendant Howard Zlotkin was at all relevant times a teacher at Dickinson High, acting under color of state law. He is sued in his individual capacity.

### **JURISDICTION AND VENUE**

26. This action arises under Title VI of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000d *et seq.*; 42 U.S.C. § 1983; and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-4 & 10:5-5(l).

27. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343(a)(4), and 1367(a).

28. The acts complained of occurred in the District of New Jersey, and venue in this Court is proper under 28 U.S.C. § 1391(b).

### **JURY DEMAND**

29. Plaintiff demands a trial by jury in this action.

### **FACTUAL ALLEGATIONS**

#### ***T.W. Is a Driven, Successful Student***

30. T.W. loved school.

31. She dreams of working in the medical field.

32. She has been accepted to college and plans to pursue a career as a medical assistant.

33. Though T.W.—like so many students—was disappointed when the COVID-19 pandemic required Dickinson High School to close and forced her classes to be conducted virtually, she did her best to keep up with her studies, and diligently logged on to her virtual classes each day.

34. Despite the challenges of the 2020-2021 academic years, she has been able to maintain her grades.

***Zlotkin's April 28, 2021 Racist Rant***

35. Howard Zlotkin taught a Landscape and Design class at Dickinson High.

36. Upon information and belief, Zlotkin had been teaching at Dickinson High for nearly 20 years.

37. Zlotkin also worked as an adjunct professor at Hudson County Community College.

38. T.W. was enrolled in Zlotkin's landscape and design class for the entire 2020-2021 academic year.

39. Like all of T.W.'s high school classes during the 2020-2021 academic year, her Landscape and Design class met remotely, via Zoom. Class was held five days a week.

40. T.W. needed the credit from her Landscape and Design class in order to fulfill her graduation requirements.

41. On Wednesday, April 28, 2021, T.W. logged into her Landscape and Design class expecting to participate in a discussion about climate change, the subject the class was studying at the time.

42. Instead, her teacher, Zlotkin, erupted into a racist, expletive-laden rant.

43. T.W. and other classmates recorded portions of his rant.

44. During his rant, Zlotkin disparaged people “whining and crying [saying] ‘Black Lives Matter.’”

45. He continued: “George Floyd was a fucking criminal about to be arrested and he got killed because he wouldn’t comply. And the bottom line is you make him a fucking hero? He’s not a hero. He’s like a criminal.”

46. He went on to rant about Tawana Brawley, who he said “lied and ruined people’s lives.”

47. Speaking directly to his high school students, Zlotkin yelled, “And you guys emulate people . . . that are fucking wrong, that are criminals!”

48. His rant included the racist suggestion that Black families have more children than they can afford. He stated: “I don’t really care who you are or what color you are. . . . I worked three jobs every fucking day of my life. I have one kid, not seven, because I can’t afford seven.”

49. T.W. was shocked.

50. T.W. was horrified.

51. T.W. felt disgusted, humiliated, and appalled. She was outraged that a teacher in a class she was required to attend was spending class time spouting hate-filled, racist, expletive-laden comments that had nothing whatsoever to do with the Landscape and Design curriculum.

52. It was about to get worse.

53. After T.W. and other classmates objected to Zlotkin’s outrageous statements, he turned his ire on them.

54. He told T.W. and three other young women—upon information and belief, all Black or people of color—that they would be required to write an essay “explaining”

why Black lives should matter to anyone, and that they would have to present to the class the following day.

55. He told them that if they did not complete the assignment, he would give them zeroes for the final grading period—meaning they would fail the class.

56. Zlotkin also said that he would invite Principal Casillas to attend the class to hear the students' defense of why Black lives should matter.

57. T.W. was shocked by the assignment.

58. She felt a wave of humiliation at being singled out among her classmates for this assignment. She felt deeply degraded at the thought of having to defend her own dignity and the inherent value of her own life.

59. She interpreted Zlotkin's reference to Principal Casillas to mean that Principal Casillas would approve of the assignment and force her to complete it.

60. Distraught, T.W. called her uncle and told him what had happened in class.

61. T.W. also called her mother, Ms. Nieves, who was at work and could only speak briefly.

62. T.W. was crying on the phone with her mother.

63. Ms. Nieves was horrified by T.W.'s description of what happened in class that day.

64. Ms. Nieves called the BOE, trying to speak to an official about Zlotkin's behavior in class. No one at the BOE was available to speak to her. She was told to call back later.

65. Immediately after class, T.W. emailed Defendant Savino-Gonzalez, her assigned guidance counselor. She asked to set up a meeting right away.

66. Ms. Savino-Gonzalez never responded.

67. Next, T.W. emailed Leonardo Laboy, a Dickinson High teacher. She wrote that she thought he was her assigned Crisis Intervention Teacher and asked for a meeting to discuss a problem with one of her classes.

68. Mr. Laboy did not respond.

69. After nearly two hours, with no response from Ms. Savino-Gonzalez or Mr. Laboy, T.W. reached out to Defendant Smith, the Crisis Intervention Teacher assigned to her, asking to set up a meeting.

70. T.W. told him she was “having an issue with [her] teacher,” and that she had tried to contact the BOE but discovered that it was closed that day. She explained that the situation was “crazy” and that she wanted to discuss it with him. She said she had tried to email her guidance counselor but had received no response.

71. T.W.’s email to Mr. Smith continued: “It’s not the first time but this is [the] second time this situation is happening.”

72. T.W. asked Mr. Smith to “please try to figure out [if] we can do like a Google meet where we can talk or something because this is crazy.”

73. Mr. Smith did not respond for almost a full day.

74. By then, it was too late.

75. Other students were also reaching out to school officials to try to alert them to Zlotkin’s outrageous conduct.

76. After class ended, one of the other students whom Zlotkin singled out for abuse, S., sent a text message to T.W.



77. According to the text message, S. had already emailed her counselor to complain about Zlotkin's conduct and had informed her counselor that there was video of the incident.

78. S. told T.W. that S.'s counselor assured her she would "handle it."

79. Upon information and belief, S.'s counselor did not take steps to protect students from Zlotkin's abuse.

80. T.W. told S. she was "offended" and felt incredibly "disrespected" by Zlotkin's racist tirade.

81. S. said that she too felt uncomfortable.

82. S. told T.W. that her parents were very upset about what had happened, "so d[on't] w[orry] this wont go un noticed [sic]."

***Zlotkin's April 29, 2021 Racist Rant***

83. Having received no response from any of the school officials to whom she had pleaded for help, T.W. attended Zlotkin's class again the following day.

84. Because the school had taken no action to protect T.W. and her classmates, T.W. and her peers were subjected to yet another onslaught of racist, derogatory, and demeaning comments from Zlotkin.

85. Zlotkin demanded that T.W. and another classmate present to the class on the topic he had assigned the day before: why Black lives should matter.

86. T.W. and the other classmate refused to participate in such a demeaning exercise.

87. Zlotkin was furious that they would not present. He sneered: "Cause why? You can't make a case for yourself? Talk to the hand."

88. He told T.W. that she was "full of shit."

89. Zlotkin continued, “I was truly looking forward to your opinion on why only Black lives matter.”

90. When the students tried to explain that no one had suggested that *only* Black lives matter, Zlotkin interrupted them. “You guys are a bunch of whiners.”

91. When one student told Zlotkin that he needed to stop talking about race, Zlotkin muted the student and then kicked him out of the Zoom classroom.

92. Zlotkin mocked another of the students he had singled out the day before, calling her a “princess” who was “entitled for life.”

93. He continued: “White people are human too. White lives don’t matter, I know.”

94. A student interjected to say, again, that no one had ever claimed that white lives don’t matter. She asked why Zlotkin was bringing race into a class about landscape and design.

95. Zlotkin insisted on continuing his racist tirade: “You said Black lives matter. I’m trying to correct you. I’m a biology teacher.”

96. When a student said she should not have to defend her own existence to him, he responded, “It’s only right for you to explain yourself.”

97. T.W. was devastated.

98. T.W. cried during class.

99. She pleaded with Zlotkin. She told him, in sum or substance, that he had to understand that there were Black kids behind these computer screens, and he should think about how hurt they must be by his racist remarks.

100. He dismissed her concern, telling her to “have a nice day and breathe.”

101. Immediately after class, T.W. wrote a long email to Defendant Smith detailing what had happened.

102. She wrote that Zlotkin was being “very rude to us” and “clearly said black lives don’t matter,” and that she “feel[s] very offended about it.”

103. T.W. recounted Zlotkin’s comments about George Floyd and told Mr. Smith about the assignment she was given to write an essay about “why we think black lives should matter.”

104. T.W. then told Mr. Smith about what had occurred in class earlier that day: that she had refused to do the presentation Zlotkin assigned, and that he told her that “[she] didn’t care because [she] can’t make a case for [her]self.”

105. T.W. continued: “He told me because I can’t make a case for myself forget about it because I’m full of shit too.”

106. T.W. described the efforts of other students to intervene.

107. Mr. Smith did not respond for more than 24 hours.

108. No school official called T.W. that day or spoke with her directly about what happened.

109. T.W. called her uncle again, and he called Vice Principal Rose Winstead. She told T.W.’s uncle that she would handle it.

110. Defendant Winstead never reached out to T.W. directly to ask what had happened.

111. Frustrated by the silence from BOE and Dickinson High administrators, T.W. and her mother alerted the press about what had happened.

112. Only after the media reported on Zlotin’s conduct did BOE finally respond.

113. Zlotkin was suspended from his teaching duties late in the day Thursday, April 29, 2021.

114. Defendant BOE told NBC New York that the school had been “in the process of taking statements from students today before proceeding with disciplinary actions.”

115. But no one from Dickinson High had reached out to T.W. to interview her or to Ms. Nieves to discuss the situation with her.

116. In fact, no one from Dickinson High even informed T.W. or her classmates that Zlotkin had been suspended. When they logged into Landscape class Friday, April 30, 2021, no teacher was there and no one told them the status of the class.

117. In fact, it was not until May 9, 2021 that Vice Principal Winstead first told the class (through a message on Google Classroom) that they were looking for substitute teachers for the class.

118. T.W. and her mother learned that Zlotkin had resigned from news accounts.

***School Officials Knew Zlotkin Was Abusive to Students***

119. While school officials purported to be “appalled” by Zlotkin’s behavior, it should have come as no surprise.

120. Zlotkin was known to frequently lose his temper and scream profanities at his students.

121. Zlotkin repeatedly called his students “lazy” and “stupid.”

122. During nearly every class, Zlotkin told his students, in sum and substance, “If you guys don’t want to breathe, then don’t breathe.”

123. Zlotkin had repeated this refrain in nearly every class, including on April 28, 2021.

124. T.W. interpreted it as a derogatory reference to the Black Lives Matter mantra, “I can’t breathe.”

125. Upon information and belief, teachers and administrators at Dickinson High had received multiple student complaints about Zlotkin.

126. T.W. was one of those students.

127. On December 14, 2020, over four months before Zlotkin’s racist rant, T.W. reached out to Principal Casillas to complaint about Zlotkin’s behavior in class.

128. T.W. explained that she was having “a lot of trouble” with Zlotkin.

129. She told Principal Casillas that Zlotkin called T.W. and her classmates “fucking idiots.”

130. T.W. told Principal Casillas this was not the first time Zlotkin had acted so inappropriately.

131. T.W. complained to Principal Casillas that Zlotkin was “unprofessional.”

132. T.W. told Principal Casillas that there was “even a video” of Zlotkin being rude to students.

133. “This is unacceptable,” T.W. told Principal Casillas.

134. T.W. sent Principal Casillas a video showing Zlotkin shouting profanities at students in class.

135. The video depicts T.W. pleading with Zlotkin to stop yelling and telling him that his language was “unprofessional” and “not nice.”

136. Principal Casillas said that the school would address the situation.

137. But Principal Casillas never reached out to or interviewed T.W. to hear from her directly about her experience with Zlotkin.

138. Principal Casillas never asked T.W. to provide the video she mentioned showing Zlotin's behavior.

139. Upon information and belief, Principal Casillas never reached out to or interviewed any of T.W.'s classmates following T.W.'s December 14, 2020 complaint.

140. Upon information and belief, no BOE or Dickinson High official ever reached out to or interviewed any of T.W.'s classmates following T.W.'s December 14, 2020 complaint.

141. Upon information and belief, neither BOE nor any Dickinson High officials launched a formal investigation of Zlotkin following T.W.'s December 14, 2020 complaint.

142. Upon information and belief, neither BOE nor any Dickinson High officials launched a formal investigation of Zlotkin following any student's complaint in the last five years.

143. Zlotkin was permitted to continue teaching after T.W.'s December 14, 2020 complaint.

144. In fact, in class the next day, Zlotkin berated the class for "ratting him out."

145. T.W. felt threatened by Zlotkin's remark.

146. T.W. was terrified Zlotkin would learn that it was her who had complained.

147. T.W. was worried that Zlotkin would retaliate against her.

148. T.W. was worried Zlotkin would give her a bad grade or, worse, fail her.

149. Zlotkin ended class with his usual refrain: “If you guys don’t want to breathe, don’t breathe.”

150. Upon information and belief, Zlotin received no formal discipline or punishment following T.W.’s December 14, 2020 complaint.

151. Upon information and belief, neither BOE nor any Dickinson High officials took any steps to monitor Zlotkin’s conduct following T.W.’s December 14, 2020 complaint.

152. For example, even though Zlotkin was teaching entirely over Zoom, neither BOE nor Dickinson High officials required that Zlotin’s classes be recorded and reviewed, or even sat in on any of his classes to observe his teaching.

***T.W. Suffers Significant Emotional Harm***

153. T.W. was devastated after Zlotkin’s racist rant on April 28, 2021.

154. T.W. emerged from that class crying.

155. T.W. cried while she recounted to her mother what had happened during class.

156. T.W. reached out to multiple Dickinson High officials for help.

157. Her devastation was compounded by those officials’ apparent disregard for her pain.

158. T.W. dreaded returning to class the following day.

159. She felt fear and panic as the time for class approached.

160. She was terrified and humiliated when Zlotkin yelled at her and suggested that she “couldn’t make a case” for why Black lives—why her life—should matter.

161. After class on April 28, 2021, T.W. cried again while telling her mother what had happened.

162. T.W. asked her mother, in sum and substance, “Is there something wrong with my skin color?”

163. T.W. cried during class on April 29, 2021.

164. T.W. has had trouble sleeping since Zlotkin’s outburst.

165. T.W. has been consumed by feelings of sadness, despair, and humiliation since Zlotkin’s outburst.

166. T.W. has felt unmotivated at school since Zlotkin’s outburst.

167. She has struggled to leave her house or go outside.

168. As a result of her obvious distress, Ms. Nieves arranged for T.W. to start seeing a therapist.

**FIRST CAUSE OF ACTION**  
**Title VI, 42 U.S.C. § 2000d *et seq.***  
**Race Discrimination – Disparate Treatment and Hostile Environment**  
**Against Defendants BOE and Dickinson High**

169. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

170. Upon information and belief, the BOE and Dickinson High receive federal financial assistance.

171. The acts and omissions of the BOE and Dickinson High, which include acts and omissions of Dickinson High officials and employees, violated T.W.’s rights under Title VI by discriminating against her on the basis of her race and subjecting her to a hostile educational environment.

172. The BOE and Dickinson High had notice that Zlotkin’s conduct was outrageous and discriminatory, through a variety of channels. First, Zlotkin was himself an agent of Dickinson High. Second, BOE and Dickinson High received complaints



about Zlotkin, including from T.W., before April 28, 2021. Third, BOE and Dickinson High received complaints about Zlotkin's racist rant on April 28, 2021, before his rant continued on April 29, 2021.

173. The conduct described above was so severe, pervasive, and objectively offensive that it created a hostile educational environment based on race that deprived T.W. of access to educational programs, activities, and opportunities.

174. The BOE and Dickinson High and their policymakers, officials, and other employees exhibited deliberate indifference to the discriminatory treatment and harassment of T.W. on the basis of race in violation of Title VI, causing T.W. to be subjected to race discrimination and harassment as described above.

175. As an actual, direct, and proximate result of the BOE's and Dickinson High's acts and omissions, T.W. suffered substantial injuries as alleged above.

**SECOND CAUSE OF ACTION**  
**N.J. Law Against Discrimination, N.J.S.A. § 10:5-4 & 10:5-5(l)**  
**Race Discrimination**  
**Against All Defendants**

176. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

177. The New Jersey Law Against Discrimination ("NJLAD") protects students in schools from being discriminated against on the basis of race and from being subjected to a hostile educational environment on the basis of race. N.J.S.A. § 10:5-4 & 10:5-5(l).

178. By the acts and omissions detailed above, Defendants violated T.W.'s rights under NJLAD by discriminating against her on the basis of her race and subjecting her to a hostile educational environment.

179. The BOE, Dickinson High, Casillas, and Smith had notice that Zlotkin's conduct was outrageous and discriminatory, through a variety of channels. First, Zlotkin was himself an agent of Dickinson High. Second, BOE and Dickinson High received complaints about Zlotkin, including from T.W., before April 28, 2021. Third, BOE and Dickinson High received complaints about Zlotkin's racist rant on April 28, 2021, before his rant continued on April 29, 2021. These Defendants failed to take effective measures to stop Zlotkin and/or prevent the racial discrimination T.W. suffered.

180. The conduct described above was so severe, pervasive, and objectively offensive that it created a hostile educational environment based on race that deprived T.W. of access to educational programs, activities, and opportunities.

181. The BOE, Dickinson High, Casillas, and Smith, and their policymakers, officials, and other employees exhibited deliberate indifference to the discriminatory treatment and harassment of T.W. on the basis of race, causing T.W. to be subjected to race discrimination and harassment as described above.

182. Zlotkin directly discriminated against T.W. by treating her differently on the basis of her race and by creating a hostile educational environment and subjecting her to severe and pervasive racial harassment.

183. As an actual, direct, and proximate result of Defendants' acts and omissions, T.W. suffered substantial injuries as alleged above.

**THIRD CAUSE OF ACTION**  
**42 U.S.C. § 1983 – Equal Protection**  
**Against Zlotkin**

184. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

185. As a teacher at Dickinson High, Defendant Zlotkin was acting under color of state law.

186. Zlotkin deprived T.W. of the equal protection of the laws by singling her out for additional race-based assignments and subjecting her to severe racial harassment. He did so with racially discriminatory intent and purpose.

187. Zlotkin's conduct was wilfull, wanton, and reckless.

188. As an actual, direct, and proximate result of Defendants' acts and omissions, T.W. suffered substantial injuries, and alleged above.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- A. Compensatory damages in an amount to be determined at trial;
- B. Punitive damages against all Defendants except the BOE and Dickinson High in an amount to be determined at trial;
- C. An award of reasonable costs and attorneys' fees under 42 U.S.C. § 1988, N.J. Stat. Ann. § 10:5-27.1 and/or any other applicable law;
- D. Pre- and post-judgment interest to the fullest extent permitted by law; and
- E. Any additional relief the Court deems just and proper.

Dated: June 9, 2021  
New York, New York

KAUFMAN LIEB LEBOWITZ &  
FRICK LLP

/s/ Alanna Kaufman  
Alanna Kaufman  
Alison Frick\*  
David Lebowitz\*  
10 E. 40<sup>th</sup> Street, Suite 3307  
New York, New York 10016  
(212) 660-2332

*Attorneys for Plaintiff*

\*Applications for admission *pro hac*  
*vice* forthcoming